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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,336	12/04/2001	Martin Rex Dorricott	282476US8XCONT	6821
22850 7590 03/07/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
			EXAMINER VAN HANDEL, MICHAEL P	
			ART UNIT 2623	PAPER NUMBER
			NOTIFICATION DATE 03/07/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Office Action Summary**

Application No.

10/006,336

Applicant(s)

DORRICOTT ET AL.

Examiner

MICHAEL VAN HANDEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13, 15, 16 and 18-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15, 16 and 18-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to an Amendment filed 11/26/2007. Claims **1-13, 15, 16, 18-36** are pending. Claims **1, 7, 12, 13, 25** are amended. Claims **14, 17** are canceled. Claim **36** is new.

### ***Response to Arguments***

1. Applicant's arguments regarding claims **1, 7, 12, 13, 15, 16, 18, 19, and 25**, filed 11/26/2007, have been considered, but are moot in view of the new ground(s) of rejection. Also note the rejection of claims **1, 7, 12, 13, 15, 16, 18, 19, and 25** under 35 USC 112, first paragraph below.
2. Applicant's arguments regarding claims **36**, filed 11/26/2007, have been fully considered, but they are not persuasive.

Regarding claim **36**, note the rejection under 35 USC 112, first paragraph below. The applicant argues that Stefik et al. describes that once a digital work has been compiled, the usage rights are permanently attached to that work, indicating that the media items within that digital work cannot be separated from each other. The examiner respectfully disagrees. Stefik et al. discloses an extract transaction, in which a requester may request to copy a part of a digital work and to create a new work containing it. The extraction operation can be used to separate a part of a digital work from d-blocks or shells that place additional restrictions or fees on it. The requester sends a message to the server indicating the part of the work to be extracted, the version of the extract right to be used in the transaction, the destination address information for

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placing the part as a new work, the file data for the work, and the number of copies involved.

The server transmits the requested contents and data to the requester according to the transmission protocol. If a Next-Set-Of-Rights has been provided, those rights are transmitted as the rights for the new work. The Copy-Count field for this right is set to the number-of-copies requested (col. 41, l. 23-51). As such, the examiner maintains that Stefik et al. meets the limitation of “the multimedia media items are separable and independent from each other, the distributed media items form a distributed work, and correspondence between said metadata item and corresponding media items are updated based on which media items were distributed as the distributed work,” as currently claimed.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-13, 15, 16, 18-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claims 1, 7, 12, 13, 15, 16, 18, 19, and 25, the examiner fails to find support for the amended phrase “separate from any respective metadata item” in Applicant’s specification. The applicant states that the amended language is supported by the specification at

page 7, lines 5-11, page 8, lines 7-14, and page 9, lines 16-23; however, the examiner respectfully disagrees. The passage of page 7, lines 5-11 states that the Unique Metadata Identifiers (UMIDs) assist in correlating character merchandising deals with the content of audio/video material (p. 7, lines 5-11 of Applicant's specification). The passage of page 8, lines 7-14 states that a set of UMIDs for each version of a program may differ and may therefore be assigned a different Unique Program Identifier (UPID) identifying that version of the program. At the emission stage an update of the asset management system is effected, so that the final UPID to UMID association is recorded for each emitted version of the program (p. 8, lines 7-14 of Applicant's specification). The passage of page 9, lines 16-23 states that viewing figures generated at the analysis stage are fed back and associated with the UPID and with individual UMIDs associated with the audio/video material within the program (p. 9, lines 16-23 of Applicant's specification). None of these passages describe distributing media items to a plurality of end-users "separate from any respective metadata item," as currently claimed.

The examiner notes that "metadata" is data about data (see definition of "metadata" in Microsoft Press Computer Dictionary, Third Edition). Applicant's specification describes mapping UPIDs to program identifiers with the date and time of scheduling for broadcast of the program (p. 6, lines 26-28). The program identifier is added to the broadcast, and may be the transport identifier which is used to identify digital video broadcasting (DVB) packets forming a program (p. 7, lines 13-17). The transport program identifier is mapped to the UPID in the analysis stage, to monitor the number of consumers watching/listening to the audio/video production (p. 8, lines 16-31 & p. 9, lines 1-12). Applicant's specification further notes that the transport programme identifiers may be the packet identifiers (PIDs) of the DVB standard (p. 9,

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lines 13-15). Applicant's specification still further describes programme allocation tables (PAT)(p. 12, lines 24-31 & p. 13, lines 1-4), programme map tables (PMT)(p. 13, lines 6-11), and conditional access tables (CAT)(p. 13, lines 13-31 & p. 14, lines 1-5), each of which are data associated with programs. The examiner also notes that many of the dependent claims (claim 5, for example) require associating data with media items for distribution and receiving the data to identify the media items received by end-users. The examiner notes that all of this aforementioned data associated with the program in the transport stream is metadata.

Referring to claims 2-6, 8-11, 20-24, and 26-36, the claims are rejected as being dependent on the aforementioned claims.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13, 15, 16, 18-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stefik et al. in view of Watson.

Referring to claims 1, 12, 15, 16, 19, and 25, Stefik et al. discloses a system/method for electronic media distribution, the system comprising:

- means for generating a plurality of media items (col. 6, l. 35-40; col. 7, l. 7-8);
- a data repository (col. 7, l. 8-10) for storing a respective metadata item corresponding to multiple media items (col. 9, l. 50-67; col. 10, l. 1-23; & Figs. 5-10), each metadata

- item containing metadata relating to the generation of the corresponding media item (col. 10, l. 24-67);
- means for electronically distributing at least some of the media items to a plurality of end-users (col. 37, l. 52-67 & col. 38, l. 1-20);
  - means for detecting reception by the end-users of the media items (copies-in-use field)(col. 10, l. 24-67); and
  - means for associating, with each metadata item relating to an electronically distributed media item, a reception indicator indicative of the number of users receiving that media item (copies-in-use field)(col. 10, l. 50-53).

Stefik et al. does not specifically disclose distributing media items to end-users separate from any respective metadata item. Watson discloses a cable television-usage system that enables CATV subscribers to be charged a fee based upon their actual usage of cable programs (col. 2, l. 59-62). Channel detection means is provided for detecting the tuned channel by detecting the local oscillator signal of the channel that the television is tuned to. Timing processing means is provided for measuring the elapsed time that each channel is being used. A transmitter means is provided for selectively transmitting the usage time of each channel of the television (col. 3, l. 21-37). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Stefik et al. to locally monitor a tuned channel and timing information of the tuned media channel, and to report the channel and time to the media originator, such as that taught by Watson in order to conserve downstream bandwidth.

Referring to claims 2 and 26, the combination of Stefik et al. and Watson teaches a system according to claims 1 and 25, respectively, in which the metadata item contains at least

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metadata relating to the planning or commissioning of the media item (Stefik et al. col. 10, l. 65-67 & col. 11, l. 1-6).

Referring to claims **3**, **9**, and **27**, the combination of Stefik et al. and Watson teaches a system according to claims 1, 7, and 25, respectively, in which the media items include audio and video items (Stefik et al. col. 6, l. 35-42).

Referring to claims **4** and **28**, the combination of Stefik et al. and Watson teaches a system according to claims 1 and 25, respectively, comprising means for associating a material identifying code with each media item for electronic distribution (the examiner notes that usage rights identify that a certain fee is associated with a digital work)(Stefik et al. col. 11, l. 44-52 & col. 18, l. 55-65).

Referring to claims **5** and **29**, the combination of Stefik et al. and Watson teaches a system according to claims 4 and 28, respectively, comprising means for receiving the material identifying codes of media items received by end-users (Stefik et al. col. 17, l. 48-67 & col. 18, l. 13-45).

Referring to claims **6** and **30**, the combination of Stefik et al. and Watson teaches a system according to claims 5 and 29, respectively, in which the receiving means comprises a modem link to the end users' receiving apparatus (Stefik et al. col. 18, l. 24-26).

Referring to claims **7**, **13**, and **18**, Stefik et al. discloses a system/method for electronic media distribution, the system comprising:

- means for generating a plurality of media items (col. 6, l. 35-40; col. 7, l. 7-8);
- a data repository (col. 7, l. 8-10) for storing a respective metadata item corresponding to multiple media items (col. 9, l. 50-67; col. 10, l. 1-23; & Figs. 5-10), each metadata



- item containing metadata relating to copyright and/or ownership of the corresponding media item (col. 10, l. 24-67);
- means for electronically distributing at least some of the media items to a plurality of end-users (col. 37, l. 52-67 & col. 38, l. 1-20);
  - means for detecting the copyright and/or ownership metadata relating to media items actually distributed to end-users (revenue-owner field)(col. 10, l. 45-67); and
  - means for analyzing the media items actually distributed to end users to determine the content of the media items and generating payment information indicative of a required payment to the holder of rights defined by the copyright and/or ownership metadata based on a determination by the means for analyzing (col. 17, l. 48-67 & col. 18, l. 13-45).

Stefik et al. does not specifically disclose distributing media items to end-users separate from any respective metadata item. Watson discloses a cable television-usage system that enables CATV subscribers to be charged a fee based upon their actual usage of cable programs (col. 2, l. 59-62). Channel detection means is provided for detecting the tuned channel by detecting the local oscillator signal of the channel that the television is tuned to. Timing processing means is provided for measuring the elapsed time that each channel is being used. A transmitter means is provided for selectively transmitting the usage time of each channel of the television (col. 3, l. 21-37). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Stefik et al. to locally monitor a tuned channel and timing information of the tuned media channel, and to report the channel and time to the media originator, such as that taught by Watson in order to conserve downstream bandwidth.

Referring to claim **8**, the combination Stefik et al. and Watson teaches a system according to claim 7, in which the data repository is a database (Stefik et al. col. 14, l. 7-39).

Referring to claim **10**, the combination of Stefik et al. and Watson teaches a system according to claim 7, comprising means for associating a material identifying code with each generated media item, the material identifying code being mapped, in the data repository, to the copyright and/or ownership metadata (Stefik et al. col. 10, l. 9, l. 50-67 & col. 10, l. 1, 8-67).

Referring to claim **11**, the combination of Stefik et al. and Watson teaches a system according to claim 10, in which the detecting means is operable to detect the material identifying code associated with media items to be distributed (Stefik et al. col. 36, l. 29-34).

Referring to claims **20** and **31**, the combination of Stefik et al. and Watson teaches a system according to claims 1 and 25, respectively, further comprising means for logging a distribution time with a transport identifier for a transmitted media item (Stefik et al. col. 11, l. 9-13).

Referring to claims **21** and **32**, the combination of Stefik et al. and Watson teaches the system according to claims 1 and 25, respectively, further comprising means for viewing figures generated at an analysis stage and associated with a metadata item (Stefik et al. col. 17, l. 25-29).

Referring to claims **22** and **33**, the combination of Stefik et al. and Watson teaches the system according to claims 4 and 28, respectively, further comprising means for assigning different material identifying codes for different versions of a media item at a time the media item is distributed (Stefik et al. col. 18, l. 6-67 & col. 19, l. 1-12).

Referring to claims **23** and **34**, the combination of Stefik et al. and Watson teaches the system according to claims 4 and 28, respectively, further comprising means for associating

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metadata items with each material identifying code recorded for each distributed version of a media item and saving the metadata items with each material identifying code in the data repository (Stefik et al. col. 18, l. 54-67 & col. 19, l. 1-10).

Referring to claims **24** and **35**, the combination of Stefik et al. and Watson teaches the system according to claims 4 and 28, respectively, further comprising means for monitoring a final version of a distributed media item and subsequently modifying the material identifying code at distribution to include a form in which program is distributed (Stefik et al. col. 18, l. 63-65).

Referring to claim **36**, the combination of Stefik et al. and Watson teaches a system according to claim 1, wherein the multiple media items are separable and independent from each other (Stefik et al. col. 9, l. 9-20, 50-67 & col. 41, l. 23-51), the distributed media items form a distributed work (Stefik et al. col. 9, l. 9-20, 50-67; col. 35, l. 59-64; col. 37, l. 52-67; & col. 38, l. 1-20), and correspondence between said metadata item and corresponding media items are updated based on which media items were distributed as the distributed work (Stefik et al. col. 41, l. 24-51).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVH

A handwritten signature in black ink, appearing to read "Ch Kelley". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

**CHRIS KELLEY**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**